

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

Eastern Division

PENNYMAC LOAN SERVICES, LLC,
Plaintiff,

CIVIL ACTION
Case No: 2:19-cv-00193-TBM-
MTP

-vs-

SITCOMM ARBITRATION
ASSOCIATION, MARK MOFFETT,
SANDRA GOULETTE, RONNIE
KAHAPEA, MARK JOHNSON, KIRK
GIBBS, and ALARIC SCOTT,

Defendants.

**PLAINTIFF PENNYMAC
LOAN SERVICES, LLC'S
MOTION TO COMPEL
DEPOSITION OF
DEFENDANT SANDRA
GOULETTE AND REQUEST
FOR SANCTIONS**

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COMPEL DEPOSITION OF DEFENDANT SANDRA GOULETTE AND
REQUEST FOR SANCTIONS**

COMES NOW plaintiff, PennyMac Loan Services, LLC ("PennyMac") to file its Motion to Compel the Deposition of defendant Sandra Goulette ("Goulette") and Request for Sanctions pursuant to Federal Rules of Civil Procedure Rules 37(a) and 30(d), showing unto the Court the following:

1. On November 11, 2020, PennyMac served the Notice of Deposition for Goulette via FedEx for a scheduled deposition on December 7, 2020. The Notice of Deposition was delivered on November 12, 2020 and set the deposition to occur virtually by video conference. The Notice of

Deposition and proof of delivery are attached as Exhibit 1 to the Deposition transcript for Goulette that is attached hereto as **Exhibit A**.

2. On November 17, 2020, PennyMac served a cover letter to all defendants enclosing the Notices of Deposition for Goulette as well as the other defendants, Mark Johnson, Mark Moffett, Ronnie Kahapea, and Kirk Gibbs. The cover letter and its enclosures were served via FedEx and were delivered to Goulette on November 18, 2020. The November 17, 2020 letter and proof of delivery are attached as Exhibit 2 to the deposition transcript for Goulette that is attached hereto as **Exhibit A**.
3. On December 4, 2020, PennyMac served a Proof of Service of Notices of Deposition and Further Correspondence Regarding Depositions with the Court. (Docket 100.)
4. Prior to the deposition Goulette requested that her deposition be moved to either another date or another time. Counsel for PennyMac accommodated Goulette's request and rescheduled her deposition to December 8, 2020. Goulette was served with an Amended Notice of Deposition via FedEx and email, which is attached as Exhibit 4 to the deposition transcript for Goulette that is attached hereto as **Exhibit A**.
5. On December 8, 2020, Goulette appeared for her deposition. After

approximately three hours of testimony time, everyone at the deposition broke for a 20-minute break. After the break counsel for PennyMac, the court reporter, and the videographer returned to their screens, but Goulette never reappeared. Counsel for PennyMac called her three times, emailed her three times, and waited for over an hour for her to reappear at her computer screen (which was visible to everyone that was in the deposition because she had left her video camera on so that her office remained visible on Zoom). She never responded to the calls or emails or reappeared. Therefore, counsel for PennyMac had to suspend the deposition.

6. On January 6, 2021, counsel for PennyMac emailed Goulette again to coordinate a date for her deposition, and asked that she respond by January 7, 2021, otherwise PennyMac would be required to move forward with a motion to compel. She failed to respond by January 7, 2021. Goulette did not respond until January 8, 2021 late in the evening when she mistakenly stated: “I was under the impression that the deposition had ended.” PennyMac’s counsel responded stating that “Contrary to your representation that you were ‘under the impression that the deposition had ended,’ I specifically stated on the record that we would be taking a 20 minute break until 4pm CT, and you agreed to

that duration for a break.” In the same email PennyMac’s counsel provided her with six dates for her deposition to continue in January and advised if she did not respond by 6:00 P.M. Central Time on Monday, January 11, 2021, that PennyMac would proceed with filing a Motion to Compel.

7. PennyMac incurred attorneys’ fees as well as significant costs for the court reporter and videographer as a result of Goulette’s disappearing act at her deposition. As stated in the declaration of Cheryl Chang, PennyMac incurred \$5,291 in attorneys’ fees from Blank Rome LLP. As stated in the declaration of Harris Powers, PennyMac incurred \$1,125 in attorneys’ fees from Upshaw Williams Biggers & Beckham, LLP. In addition, PennyMac incurred \$1,616 from the court reporter for Goulette’s deposition. An invoice reflecting this is attached hereto as **Exhibit B**. PennyMac also incurred \$1,451 from the videographer. An invoice reflecting this is attached hereto as **Exhibit C**.

8. Given Goulette’s refusal to return to her ongoing deposition and the other defendants’ failure to appear at their depositions and comply with their discovery obligations, PennyMac is requesting the Case Management Order be modified to extend the deadline on discovery and the deadline to file dispositive motions. PennyMac also filed a

Motion to Continue Discovery and Dispositive Motion Deadlines on December 31, 2020. (Docket 142.) Alternatively, PennyMac requests a status conference with the Court so these scheduling issues can be further addressed.

9. PennyMac is filing concurrently herewith a memorandum of law supporting the positions outlined above and relies on the additional documents appended hereto and described below:

- Exhibit A – Deposition transcript from Goulette’s deposition and the exhibits attached thereto.
- Exhibit B – Invoice from court reporter for Goulette’s deposition.
- Exhibit C – Invoice from videographer for Goulette’s deposition.
- Exhibit D – Counsel for PennyMac’s January 6, 2021 email to Goulette.
- Exhibit E – Additional Emails between PennyMac’s counsel and Goulette in January 2021.

10. As set forth in this Motion to Compel and the Memorandum in Support, PennyMac submits that its Motion is well-taken and requests that Goulette be compelled and ordered to re-appear for a deposition

and that an award of sanctions in the amount of \$9,483 be awarded in favor of PennyMac and against Goulette.

Dated: January 11, 2021

Respectfully submitted,

/s/ Nicole Bartz Metral

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Counsel for Plaintiff

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is **BLANK ROME LLP**, 2029 Century Park East, 6th Floor, Los Angeles, California 90067.

On **January 11, 2021**, I served the foregoing document(s):

**PLAINTIFF PENNYMAC LOAN SERVICES, LLC'S MOTION TO
COMPEL DEPOSITION OF DEFENDANT SANDRA GOULETTE AND
REQUEST FOR SANCTIONS**

on the interested parties in this action addressed and sent as follows:

SEE ATTACHED SERVICE LIST

- BY ENVELOPE:** by placing the original a true copy thereof enclosed in sealed envelope(s) addressed as indicated and delivering such envelope(s);
- BY CERTIFIED MAIL:** I caused such envelope(s) to be deposited in the mail at Los Angeles, California with postage thereon fully prepaid to the office or home of the addressee(s) as indicated. I am “readily familiar” with this firm’s practice of collection and processing documents for mailing. It is deposited with the U.S. Postal Service on that same day, with postage fully prepaid, in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.
- BY FEDEX:** I caused such envelope(s) to be deposited in a box or other facility regularly maintained by FedEx, an express service carrier, or delivered to a courier or driver authorized by said express service carrier to receive documents in an envelope designated by the said express service carrier, addressed as indicated, with delivery fees paid or provided for, to be transmitted by FedEx.
- FEDERAL:** I declare that I am employed in the office of a member of the bar of this court at whose direction service was made.

Executed on **January 11, 2021** at Los Angeles, California.

/s/ Charman S. Bee

Charman S. Bee

SERVICE LIST

Pennymac Loan Services, LLC v. Sitcomm Arbitration Association, et al.;
Case No. 2:19-cv-00193-KS-MTP

VIA CERTIFIED MAIL:

Ronnie Kahapea
P.O. Box 875
Volcano, HI 96785

Brett "Eon" Jones
304 South Jones Boulevard
Unit Eeon-1967
Las Vegas, NV 89107

VIA FEDEX:

Mark Johnson
451 May Lane
Louisa, VA 23093

Kirk Gibbs
4155 Lawrenceville Rd.
PMB 8119
Lilburn, GA 30047

Sandra Goulette
3007 Crescent Hill Drive
Laurel, MS 39440

Mark Moffett
345 Coon Jeffcoat Road
Soso, MS 39480

SERVICE LIST (continued)

Pennymac Loan Services, LLC v. Sitcomm Arbitration Association, et al.;
Case No. 2:19-cv-00193-KS-MTP

Rance Magee
11294 Rose Road
Emmett, MI 48022

Innovated Holdings, Inc. dba
Sitcomm Arbitration Association
C/O Registered Agents, Inc.
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